

## **JOURNAL OF THE HOUSE.**

Thursday, July 17, 2008.

Met according to adjournment, at eleven o'clock A.M., in an Informal Session, with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

### **Appointment to a Special Commission.**

The Minority Leader announced the appointment of Representative Hill of Ipswich to the special commission established (under Chapter 2 of the Resolves of 2007) to make and investigation and study of the hygienic procedures relative to band instruments.

### **Guests of the House.**

During the session, the Chair (Mr. Donato of Medford), declared a brief recess; and introduced, seated in the Chamber, a group of interns of the Department of Mental Health, accompanied by Stephen M. Cidlevich, Director of Constituent Affairs of the department.

### **Order.**

The following order (filed by Mr. O'Flaherty of Chelsea) was referred, under Joint Rule 30, to the committees on Rules of the two branches, acting concurrently:

*Ordered*, That, notwithstanding the provisions of Joint Rule 10, the committee on the Judiciary be granted until Thursday, July 31, 2008, the time within which to report on current House documents numbered 500, 1304, 1308, 1311, 1313, 1317, 1318, 1325, 1331, 1332, 1333, 1334, 1335, 1337, 1383, 1388, 1389, 1479, 1532, 1547, 1662, 1672, 1688, 1700, 1718, 1720, 1746, 1749, 3738, 3865, 3875, 3876, 3877, 3991 and 4476.

Mr. Scaccia of Boston, for the committees on Rules, then reported that the order ought to be adopted. Under suspension of the rules, on motion of Mr. O'Flaherty, the order was considered forthwith; and it was adopted. Sent to the Senate for concurrence.

### **Petitions.**

Petitions severally were presented and referred as follows:

By Mr. Rogers of Norwood, joint petition (accompanied by bill, House, No. 4982) of John H. Rogers and Marian Walsh (by vote of the town) that the town of Norwood be authorized to grant an additional license for the sale of alcoholic beverages to Byblos Restaurant. To the committee on Consumer Protection and Professional Licensure.

**UNCORRECTED PROOF**

By Mr. Sanchez of Boston, petition (accompanied by bill, House, No. 4983) of Jeffrey Sanchez (with the approval of the mayor and city council) relative to the designation of polling places for voting precincts in the city of Boston. To the committee on Election Laws.

By Mr. Spellane of Worcester, petition (accompanied by bill, House, No. 4984) of Robert P. Spellane (by vote of the town) that the town of Paxton be authorized to incur certain amount of debt for the construction of a public safety complex for the police and fire departments of said town. To the committee on Municipalities and Regional Government.

Severally sent to the Senate for concurrence.

Papers from the Senate.

The House Bill relative to early education and care (House, No. 4706, amended) came from the Senate passed to be engrossed, in concurrence, with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2797.

Under suspension of Rule 35, on motion of Mrs. Haddad of Somerset, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith.

Pending the question on concurring with the Senate in its amendment, Ms. Clark of Melrose moved to amend it in section 36 by striking out the word "probable" and inserting in place thereof the word "reasonable"; by inserting after section 64 the following 4 sections:

"SECTION 64A. Section 21 of said chapter 119, as amended by said section 83 of said chapter 176, is hereby further amended by striking out the definition of 'Qualified expert'.

SECTION 64B. Said chapter 119 is hereby further amended by striking out section 21A, as amended by said section 83 of said chapter 176, and inserting in place thereof the following section:--

Section 21A. Evidence is proceedings under sections 21 to 55H shall be admissible according to the rules of the common law and the General Laws and may include reports to the court by any person who has made an investigation of the facts relating to the welfare of the child and is qualified as an expert according to the rules of the common law or by statute or is an agent of the department or of an approved charitable corporation or agency substantially engaged in the foster care or protection of children. Such person may file with the court in a proceeding under said sections a report in full of all the facts obtained as a result of such investigation. The person reporting may be called as a witness by any party for examination as to the statements made in the report. Such examination shall be conducted as though it were on cross-examination. Evidence may include testimony of foster parents or pre-adoptive parents concerning the welfare of a child if such child has been in the care of the foster or pre-adoptive parents for 6 months or more, and may include the testimony of the child if the court determines that the child is competent and willing, after consultation with counsel, if any, to testify.

SECTION 64C. The fifth paragraph of section 24 of said chapter 119, as amended by section 84 of said chapter 176, is hereby further amended by striking out the words 'qualified expert' and inserting in place thereof the following words:- person qualified under section 21A.

SECTION 64D. Subsection (a) of section 26 of said chapter 119, as amended by said section 84 of said chapter 176, is hereby further amended by striking out the words 'qualified expert' and

inserting in place thereof the following words:- person qualified under section 21A."; and by striking out section 90 and inserting place thereof the following section:

"SECTION 90. Sections 63, 64A, 64B, 64C and 64D are effective as of July 8, 2008."

The further amendments were adopted. The House then concurred with the Senate in its amendment, as amended. Sent to the Senate for concurrence in the further amendments.

The Senate Bill that the town of Walpole be authorized to release a portion of a conservation restriction within said town (House, No. 4902) came from the Senate passed to be engrossed, in concurrence, with an amendment in section 1, in line 10 (as printed), inserting after the word "fencing" the words ", underground utilities, above ground utilities, driveways, drainage facilities".

Under suspension of Rule 35, on motion of Mr. Kafka of Stoughton, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

The following order (having been reported by the committees on Rules of the two branches, acting concurrently) came from the Senate with the endorsement that it had been adopted by said branch:

*Ordered*, That notwithstanding the provisions of Joint Rule 10, the committee on Consumer Protection and Professional Licensure be granted until Friday, July 18, 2008 in which to make its final report on Senate document 2256, relative to alcoholic beverage licenses in the city of Somerville.

Under suspension of the rules, on motion of Mr. Rodrigues of Westport, the order was considered forthwith; and it was adopted, in concurrence.

The following order (having been reported by the committees on Rules of the two branches, acting concurrently) came from the Senate with the endorsement that it had been adopted by said branch:

*Ordered*, That notwithstanding the provisions of Joint Rule 10, the committee on Municipalities and Regional Government be granted until Thursday, July 17, 2008 in which to make its final report on current Senate documents numbered 1197, 2690 and 2691, relative to various local issues.

Under suspension of the rules, on motion of Mr. Sullivan of Fall River, the order was considered forthwith; and it was adopted, in concurrence.

A Bill designating a certain bridge in the towns of Erving and Orange as the Franklin County Purple Heart Memorial Bridge (Senate, No. 2036) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

A report of the committee on Economic Development and Emerging Technologies, asking to be discharged from further consideration of the petition (accompanied by bill, Senate, No. 2786) of James E. Timilty, John H. Rogers, Louis L. Kafka and Richard J. Ross (by vote of the town) for legislation to establish the Walpole Economic Development and Industrial Corporation, and recommending that the same be referred to the Senate committee on Ways and Means,-- accepted by the Senate, was considered forthwith, under Rule 42; and it was accepted, in concurrence, insomuch as relates to the discharge of the committee.

A petition (accompanied by bill, Senate, No. 2806) of Benjamin B. Downing and William Smitty Pignatelli (by vote of the town) for legislation relative to speed limits in the town of Otis, was referred, in concurrence, to the committee on Transportation.

## ***UNCORRECTED PROOF***

### Reports of Committees.

By Mr. Wagner of Chicopee, for the committee on Transportation, recommending that the communication from the Executive Office of Transportation (under Section 7V of Chapter 90 of the General Laws) submitting proposed regulations by the Registry of Motor Vehicles House, No. 4850) be placed on file.

Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

By Mr. Smizik of Brookline, for the committee on Environment, Natural Resources and Agriculture, on House, No. 4861, a Bill relative to Charlestown's designated port area (House, No. 4992) [Local Approval Received].

By Mr. Kaufman of Lexington, for the committee on Public Service, on a joint petition, a Bill establishing a sick leave bank for Timothy M. Larkin, an employee of the Information Technology Division (House, No. 4955).

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. O'Flaherty of Chelsea, for the committee on Judiciary, that the recommitted Bill relative to controlled substances (House, No. 4434) ought to pass. Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

### Orders of the Day.

#### Senate bills

Authorizing the town of Milton to issue one additional license for the sale of all alcoholic beverages to be drunk on the premises of a certain restaurant (Senate, No. 2485;

Relative to educational expenditures in the town of Milton (Senate, No. 2486);

Further regulating the Essex Regional Retirement System (Senate, No. 2635); and

Establishing a sick leave bank for Mark Stanton, an employee of the Department of Public Health (Senate, No. 2677);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed, in concurrence.

#### House bills

Relative to county highways in the town of Granville (House, No. 4796);

Authorizing the Commissioner of Capital Asset Management and Maintenance to lease certain property to the town of Natick (House, No. 4806); and

Authorizing the town of Sudbury to use certain insurance or recovery proceeds (House, No. 4835);

Severally reported by the committee on Bills in the Third Reading to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence. <ctrule>

At the hour of twelve o'clock noon, on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House recessed until the hour of one o'clock P.M.; and at five minutes before two o'clock the House was called to order with Mr. Donato in the Chair. <ctrule>

**UNCORRECTED PROOF**

The engrossed Bill requiring the Department of Revenue to report preliminary tax revenue (see House, No. 4958), being a printed copy of Section 8 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see attachment C of House, No. 4957), was considered.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said message.

The report was accepted.

The amendment recommended by the Governor then was rejected.

Mr. Jones of North Reading then moved to amend the bill by striking out all after the enacting clause and inserting in place thereof the following:

"Section 6 of chapter 14 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

8. Shall prepare and submit a bimonthly report of preliminary tax revenue collected each month. The commissioner shall submit these reports to the governor, the chair and ranking member of the house committee on ways and means and the chair and ranking member of the senate committee on ways and means, on or before the third business day following the fifteenth day of each month and on or before the third business day of the following month; provided, however, that the commissioner shall submit the report for June on the day after the department completes the processing of June tax revenues.".

The amendment was adopted. Sent to the Senate for concurrence.

The engrossed Bill establishing the regional efficiency assistance grant fund (see House, No. 4960), being a printed copy of Section 94 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see attachment E of House, No. 4957), was considered.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said message.

The report was accepted.

The amendment recommended by the Governor then was rejected. Sent to the Senate for its action.

The engrossed Bill requiring a report of expenditure of the Division of Capital Management and Maintenance (see House, No. 4961), being a printed copy of Section 107 contained in the engrossed Bill making appropriations for the fiscal year 2009 (see House, No. 4900), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see attachment F of House, No. 4957), was considered.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said message.

The report was accepted.

## ***UNCORRECTED PROOF***

The amendment recommended by the Governor then was rejected. Sent to the Senate for its action.

Recess.

At twenty-two minutes after two o'clock P.M., on motion of Mr. Sullivan of Fall River (Mr. Donato of Medford being in the Chair), the House recessed subject to the call of the Chair; and at twenty minutes after five o'clock the House was called to order with Mr. Donato in the Chair.

### **Emergency Measures.**

The engrossed Bill requiring the Department of Revenue to report preliminary tax revenues (see House, No. 4958, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill establishing the regional efficiency assistance grant fund (see House, No. 4960), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, without amendment; and it was signed by the acting Speaker and sent to the Senate.

The engrossed Bill requiring a report of expenditure of the Division of Capital Asset Management and Maintenance for fiscal year 2008 (see House, No. 4961), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 2 to 0. Sent to the Senate for concurrence.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment) was passed to be re-enacted, without amendment; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bills.

Engrossed bills

Establishing a sick leave bank for Shannon Crouse, an employee of the Trial Court (see House, No. 4866, amended);

Establishing a sick leave bank for Mary Mercurio, an employee of the Department of Social Services (see House, No. 4868, amended); and

Establishing a sick leave bank for Sarah Carmichael, an employee of the Department of Youth Services (see House, No. 4882, amended);

(Which severally originated in the House);

In respect to each of which the Senate had concurred in adoption of the emergency preamble, were passed to be enacted; and they were signed by the Acting Speaker and sent to the Senate.

The engrossed Bill further regulating the Essex Regional Retirement System (see Senate, No. 2635) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill designating rolling rock as the official glacial rock of the Commonwealth (House, No. 4823), reported by the committee on Bills in the Third Reading to be correctly drawn, was read a third time; and it was passed to be engrossed. Sent to the Senate for concurrence.

Order.

On motion of Mr. DiMasi of Boston,--

*Ordered*, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

At three minutes before six o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Mr. Donato of Medford being in the Chair), the House adjourned, to meet on Monday next at eleven o'clock A.M., in an Informal Session.